

REMARKS

Applicant has carefully reviewed the Office Action of 25 July 2002 and offers the above amendments and following remarks. Before turning to the rejections contained in the Office Action, a brief review of the subject matter of the present invention followed by a review of the applicable standards to be applied is in order.

The present invention is directed to providing better treatment options to parties involved in a call. From the perspective of a calling party, the calling party tries to make a call through their communications device. The communications device, particularly the phone portion of the communications device, receives an indication that the call was not completed. The communications device then receives an indication of the treatment that the calling party should receive related to the attempted call. The called party's communications device's functionality is essentially the converse of the calling party's communications device's functionality. The called party's communications device receives an indication that a call is being attempted, provides an indication that the call was not completed, and provides an indication of the treatment to be provided to the calling party.

Important to this discussion is Applicant's definition of a "communications device." Applicant generally defines "communications device" in the specification at page 4, lines 11-19. Every example of a communications device includes the phone portion of the system, not just a switch.

For the Patent Office to make a *prima facie* case of obviousness, the Patent Office must show where in the references each and every claim element is taught or suggested. If the Patent Office cannot show where the claim element is taught or suggested, the claim is non-obvious and allowable over the combination of references. MPEP §2143.03.

Claims 61-64, 66, 70, 71, 73, 76-79, 81, 85, 86, 88, 91-94, 96, 100-103, 106-111, 115, 116, and 118 were rejected under 35 U.S.C. § 103 as being unpatentable over Hess et al. in view of Weisser Jr. et al. (U.S. Patent 5,751,800). Applicant respectfully traverses this rejection.

Initially, Applicant notes that U.S. Patent 5,571,800 was issued to Ardon and has not been cited on a PTO-892 form by the Patent Office. Applicant proceeds with the understanding that the patent number that should have been cited is 5,600,710.

Claim 91 remains the same because the Patent Office has not construed the claim element properly. The claim recites receiving a message at the calling party's communication device. As

noted above, the term "communications device" includes the customer premises equipment, and, more specifically, includes the customer's phone. The Patent Office, in its analysis of Hess et al., opines that switch 16a is the calling party's communications device and that switch 16b is the called party's communications device. This interpretation ignores the requirement that the communications device includes the phone of the called party. Quite clearly, switch 16b does not include the phone of the called party because the purpose of Hess et al. is to provide a message to the calling party's switch indicating that the called party has moved and that the local number portability provisions need to be accessed. To this extent, the reference does not teach or suggest the claim element. The Weisser Jr. et al. reference does not cure the deficiencies of Hess et al. Thus, even in combination, the references do not teach or suggest the recited claim element, and the Patent Office has failed to make a *prima facie* case of obviousness. Thus, claim 91 is patentable over the reference of record.

Claims 92-94 and 96 depend from allowable claim 91, and are allowable for the same reasons.

Applicant herein amends independent claims 61, 70, 76, 85, 100, 106, and 115. Claims 61, 85, and 100 have been amended to recite that the communications passed between the structural elements pass across a packet network. Claims 61, 85, and 100 have further been amended to recite that the message is presented to the calling party through the calling party's communication device. The Patent Office opines that switches 16a and 16b in Hess et al. are the calling and called parties' communications devices, and that the communications therebetween meet the claim elements. Without conceding the propriety of this position, the claim as amended now requires that the message be presented to the calling party. Hess et al. does not present the message to the calling party, but rather sends a notice from switch 16b to switch 16a that the user at phone 13 has moved, and that switch 16b no longer supports the phone number. Upon receipt of the indication that switch 16b no longer supports the phone number, the service node 22 queries the database to find that switch 20 now supports the phone number. At no time is the message presented to the calling party as required by the claim. Nothing in Weisser Jr. et al. cures the deficiencies of Hess et al. Since neither reference individually teaches or suggests the claim element, the references in combination do not teach or suggest the claim element. Thus, the Patent Office has failed to make a *prima facie* case of obviousness, and the claims are allowable over the combination of record.

Claims 62-64, 66, 86, 88, and 101-103 depend from allowable claims 61, 85, and 100, and are allowable for the same reasons.

Claims 70 and 106 have been amended to recite that the calling party receives the message personally, and not merely that the calling party's communications device receives the message. As explained above, this element is not taught or suggested by the references of record.

Claims 71, 73, and 107-111 depend from allowable claims 70 and 106, and are allowable for the same reasons.

Claims 76 and 115 have been amended to recite explicitly that the called party's communications device includes the customer's premises equipment, specifically a phone (in claim 115). Thus, claims 76 and 115 explicitly recite the elements argued to be inherent in claim 91. Switch 16b, which the Patent Office opines is the equivalent of the claimed called party's communications device, clearly does not have the customer premises equipment that is now claimed. The purpose of Hess et al. is to provide an indication that a customer with local number portability has moved off of the switch to another switch. Thus, switch 16b of Hess et al. cannot be the called party's communications device because it does not have the customer premises equipment for the called party associated therewith. Likewise, claim 115 recites that the calling party's phone is provided with the message that indicates the treatment. As noted above with respect to claims 70 and 106, the message never reaches the calling party's phone; rather, it stops at the switch 16a. To this extent, the claim element is not shown by Hess et al. Nothing in Weisser Jr. et al. shows this claim element either. Thus, since neither reference individually shows the claim element, even in combination, the references do not teach or suggest the claim element, and the Patent Office has failed to make a *prima facie* case of obviousness.

Claims 78, 79, 81, 116, and 118 depend from claims 70 and 115, and are allowable for the same reasons.

Claims 65, 67-69, 72, 74, 75, 80, 82-84, 87, 89, 90, 95, 97-99, 102, 104, 105, 110, 113, 114, 117, 119, and 120 were rejected under 35 U.S.C. § 103 as being unpatentable over Hess et al. in view of Weisser Jr. et al. and further in view of Creswell et al. Applicant respectfully traverses this rejection. Claims 65 and 67-69 depend from claim 61, which, as argued above, is allowable over the base combination of Hess et al. and Weisser Jr. et al. Nothing in Creswell et al. cures the deficiencies of the original combination. Specifically, nothing in Creswell et al.

shows the recited packet network. Thus, claims 65 and 67-69 are allowable over the references of record.

Claims 72, 74, and 75, depend from claim 70, which, as argued above, is allowable over the base combination of Hess et al. and Weisser Jr. et al. Nothing in Creswell et al. cures the deficiencies of the original combination. Specifically, nothing in Creswell et al. shows that the message is presented to the calling party. Thus, claims 72, 74, and 75 are allowable over the references of record.

Claims 80 and 82-84 depend from claim 76, which, as argued above, is allowable over the base combination of Hess et al. and Weisser Jr. et al. Nothing in Creswell et al. cures the deficiencies of the original combination. Specifically, nothing in Creswell et al. shows that the communications device includes the customer's phone. Thus, claims 80 and 82-84 are allowable over the references of record.

Claims 87, 89, and 90 depend from claim 85, which, as argued above, is allowable over the base combination of Hess et al. and Weisser Jr. et al. Nothing in Creswell et al. cures the deficiencies of the original combination. Specifically, nothing in Creswell et al. shows the use of the packet network. Thus, claims 87, 89, and 90 are allowable over the references of record.

Claims 95 and 97-99 depend from claim 91, which, as argued above, is allowable over the base combination of Hess et al. and Weisser Jr. et al. Nothing in Creswell et al. cures the deficiencies of the original combination. Specifically, nothing in Creswell et al. shows that the called party's communications device includes the "phone" as that term is used in the specification. Thus, claims 95 and 97-99 are allowable over the references of record.

Claims 102, 104, and 105 depend from claim 100, which, as argued above, is allowable over the base combination of Hess et al. and Weisser Jr. et al. Nothing in Creswell et al. cures the deficiencies of the original combination. Specifically, nothing in Creswell et al. shows the use of a packet network. Thus, claims 102, 104, and 105 are allowable over the references of record.

Claims 110, 113, and 114 depend from claim 106, which, as argued above, is allowable over the base combination of Hess et al. and Weisser Jr. et al. Nothing in Creswell et al. cures the deficiencies of the original combination. Specifically, nothing in Creswell et al. shows that the message is presented to the calling party. Thus, claims 110, 113, and 114 are allowable over the references of record.

Claims 117, 119, and 120 depend from claim 115, which, as argued above, is allowable over the base combination of Hess et al. and Weisser Jr. et al. Nothing in Creswell et al. cures the deficiencies of the original combination. Specifically, nothing in Creswell et al. shows that the communications device includes the phone. Thus, claims 117, 119, and 120 are allowable over the references of record.

Applicant requests reconsideration of the rejection in light of the amendments and arguments presented herein, and claim allowance at the Examiner's earliest convenience.

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Date: 22 October 2002
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VERSION WITH MARKINGS TO SHOW CHANGES MADE

In the claims:

Please amend claims 61, 70, 76, 85, 100, 106, and 115 as follows:

61. (once amended) An apparatus for receiving treatments corresponding to a calling party's unsuccessful attempt to complete a communications session, comprising:

means for attempting to initiate a communications session from a calling party's communications device to a called party's communications device across a packet based network;

means for receiving [an] a packet based indication that the attempted communications session was not completed; and

receiving means for receiving at the calling party's communications device a packet based message providing an indication of a treatment corresponding to the attempted communications session, wherein said message is presented to the calling party through the calling party's communication device.

70. (once amended) An apparatus for providing treatments corresponding to a calling party's unsuccessful attempt to complete a communication session, comprising:

means for receiving an attempt to initiate a communications session from a calling party's communications device to a called party's communications device;

means for providing an indication that the attempted communications session was not completed; and

providing means for providing at the calling party's communications device a message providing an indication of a treatment corresponding to the attempted communications session; wherein said message is presented to the calling party through the calling party's communication device.

76. (once amended) A system for receiving treatments corresponding to a calling party's unsuccessful attempt to complete a communications session to a called party, comprising:

a calling party's communications device;

a called party's communications device including customer premises equipment for the called party;

a network for interfacing the calling party's communications device with the called party's communications device; and

an apparatus interfaced with the calling party's communication device, the apparatus including:

means for attempting to initiate a communications session from the calling party's communications device to the called party's communications device;

means for receiving an indication that the attempted communications session was not completed; and

receiving means for receiving at the calling party's communications device a message providing an indication of a treatment corresponding to the attempted communications session.

85. (once amended) A system for providing treatments corresponding to a calling party's unsuccessful attempt to complete a communications session, comprising:

a calling party's communications device;

a called party's communications device;

a packet based network for interfacing the calling party's communications device with the called party's communications device; and

an apparatus interfaced with the called party's communications device, the apparatus including:

means for receiving an attempt to initiate a communications session from the calling party's communications device to the called party's communications device over the packet based network;

means for providing [an] a packet based indication that the attempted communications session was not completed; and

providing means for providing at the calling party's communications device a packet based message providing an indication of a treatment corresponding to the attempted communications session, wherein said message is presented to the calling party through the calling party's communication device.

100. (once amended) A method for providing treatments corresponding to a calling party's unsuccessful attempt to complete a communications session over a packet network, comprising the steps of:

receiving an attempt to initiate a communications session from a calling party's communications device to a called party's communications device;

providing [an] a packet based indication that the attempted communications session was not completed; and

providing at the calling party's communications device a packet based message providing an indication of a treatment corresponding to the attempted communications session, wherein said message is presented to the calling party through the calling party's communication device.

106. (once amended) A computer program product, comprising:

a computer readable medium containing instructions for controlling a computer system to perform a method, the method including:

attempting to initiate a communications session from a calling party's communications device to a called party's communications device;

receiving an indication that the attempted communications session was not completed; and

receiving at the calling party's communications device a message providing an indication of a treatment corresponding to the attempted communications session, wherein said message is presented to the calling party.

115. (once amended) A computer program product, comprising:

a computer readable medium containing instructions for controlling a computer system to perform a method, the method including:

receiving an attempt to initiate a communications session from a calling party's communication device to a called party's communication device;

providing an indication that the attempted communications session was not completed; and

providing at the calling party's communications device, and particularly at a phone of the calling party's communications device, a message providing an indication of a treatment corresponding to the attempted communications session.